

SENATE BILL 14

J2

(PRE-FILED)

2lr0683
CF HB 70

By: **Senator Conway**

Requested: October 7, 2011

Introduced and read first time: January 11, 2012

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 15, 2012

CHAPTER _____

1 AN ACT concerning

2 **State Board of Morticians and Funeral Directors – Examinations of**
3 **Applicants and Licensees**

4 FOR the purpose of requiring the State Board of Morticians and Funeral Directors to
5 require certain applicants or licensees to submit to a mental or physical
6 examination under certain circumstances; providing that certain applicants or
7 licensees are deemed to have consented to submit to a certain examination and
8 to have waived a certain claim of privilege under certain circumstances;
9 providing that a certain report ~~or testimony~~ of a certain health care practitioner
10 is confidential, except under certain circumstances; providing that the failure or
11 refusal of a certain applicant or licensee to submit to a certain examination is
12 prima facie evidence of the inability to practice mortuary science or funeral
13 direction competently, unless the Board makes a certain finding; requiring
14 certain applicants or ~~licensees~~ the Board to pay the reasonable cost of certain
15 examinations under certain circumstances; requiring the Board to pay the
16 reasonable cost of certain examinations for certain licensees; and generally
17 relating to the authority of the State Board of Morticians and Funeral Directors
18 to require examinations.

19 BY adding to
20 Article – Health Occupations
21 Section 7–208
22 Annotated Code of Maryland
23 (2009 Replacement Volume and 2011 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article – Health Occupations**

4 **7-208.**

5 (A) ~~IF, WHILE REVIEWING AN APPLICATION FOR LICENSURE,~~
6 ~~INVESTIGATING AN ALLEGATION~~ WHEN INVESTIGATING AN ALLEGATION
7 BROUGHT AGAINST AN APPLICANT OR A LICENSEE UNDER THIS TITLE, OR
8 ~~INSPECTING A FACILITY OF A LICENSEE,~~ THE BOARD FINDS REASONABLE
9 EVIDENCE INDICATING THAT THE APPLICANT OR LICENSEE CANNOT PRACTICE
10 MORTUARY SCIENCE OR FUNERAL DIRECTION COMPETENTLY, THE BOARD
11 SHALL REQUIRE THE APPLICANT OR LICENSEE TO SUBMIT TO A MENTAL OR
12 PHYSICAL EXAMINATION BY A HEALTH CARE PRACTITIONER DESIGNATED BY
13 THE BOARD.

14 (B) IN RETURN FOR THE PRIVILEGE TO PRACTICE MORTUARY SCIENCE
15 OR FUNERAL DIRECTION IN THE STATE, AN APPLICANT OR A LICENSEE IS
16 DEEMED TO HAVE:

17 (1) CONSENTED TO SUBMIT TO AN EXAMINATION UNDER THIS
18 SECTION, IF REQUESTED BY THE BOARD IN WRITING; AND

19 (2) WAIVED ANY CLAIM OF PRIVILEGE AS TO THE EXAMINATION
20 ~~REPORT OR TESTIMONY REGARDING THE REPORT.~~

21 (C) ~~A REPORT OR TESTIMONY REGARDING A REPORT~~ AN EXAMINATION
22 REPORT OF A HEALTH CARE PRACTITIONER DESIGNATED BY THE BOARD IS
23 CONFIDENTIAL EXCEPT AS TO CONTESTED CASE PROCEEDINGS AS DEFINED BY
24 THE ADMINISTRATIVE PROCEDURE ACT.

25 (D) THE UNREASONABLE FAILURE OR REFUSAL OF AN APPLICANT OR A
26 LICENSEE TO SUBMIT TO AN EXAMINATION REQUIRED UNDER THIS SECTION IS
27 PRIMA FACIE EVIDENCE OF THE APPLICANT'S OR LICENSEE'S INABILITY TO
28 PRACTICE MORTUARY SCIENCE OR FUNERAL DIRECTION COMPETENTLY,
29 UNLESS THE BOARD FINDS THAT THE FAILURE OR REFUSAL WAS BEYOND THE
30 CONTROL OF THE APPLICANT OR LICENSEE.

31 (E) (1) AN SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AN
32 APPLICANT OR A LICENSEE WHO DOES NOT HOLD A VALID LICENSE WITH THE
33 BOARD SHALL PAY THE REASONABLE COST OF ANY EXAMINATION MADE UNDER
34 THIS SECTION.

1 **(2) IF AN APPLICANT IS DEEMED COMPETENT TO PRACTICE**
2 **MORTUARY SCIENCE OR FUNERAL DIRECTION AS A RESULT OF THE**
3 **EXAMINATION REPORT, THE BOARD SHALL REIMBURSE THE APPLICANT FOR**
4 **THE REASONABLE COST OF THE EXAMINATION THAT WAS PERFORMED.**

5 **(F) THE BOARD SHALL PAY THE REASONABLE COST OF AN**
6 **EXAMINATION MADE UNDER THIS SECTION FOR A LICENSEE OF THE BOARD.**

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2012.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.